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COMMITTEE ON THE RIGHTS OF THE CHILD  
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**WRITTEN REPLIES FROM THE GOVERNMENT OF EL SALVADOR  
TO THE LIST OF ISSUES (CRC/C/OPAC/SLV/Q/1) TO BE TAKEN UP  
IN CONNECTION WITH THE CONSIDERATION OF THE INITIAL  
REPORT OF EL SALVADOR SUBMITTED UNDER ARTICLE 8 (1)  
OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE  
RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN  
IN ARMED CONFLICT (CRC/C/OPAC/SLV/1)\***

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\* In accordance with the information transmitted to States parties concerning the processing of their reports, the present report was not formally edited before being sent to the United Nations translation services.

**REPLIES FROM EL SALVADOR TO QUESTIONS TO BE TAKEN UP IN THE  
COMMITTEE ON THE RIGHTS OF THE CHILD IN CONNECTION WITH  
THE OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN  
IN ARMED CONFLICT**

**1. Number of children under 18 recruited in the period 2000-2005**

Records show that over the period in question there were no applications from children aged over 16 but under 18 volunteering to perform military service pursuant to article 6 of the Armed Forces (Military and Reserve Service) Act.

**2. Details of personnel sent on special peacekeeping assignment for reconstruction and humanitarian assistance in Iraq, 2003-2006**

Altogether 2,260 troops were deployed in the six contingents of the Cuscatlán Battalion; there were no minors in any of the contingents (see breakdown).

**3. Capture of under-age prisoners of war**

El Salvador is not at war with Iraq. Our contingent is participating in special peacekeeping assignments for reconstruction and humanitarian assistance in Iraq pursuant to United Nations Security Council resolution 1546 (2004) and subsequent resolutions. Under international humanitarian law, therefore, it is incorrect to speak of “prisoners of war”; under the principle of “security of the force” applied in peacekeeping operations, however, a person committing a hostile act against the force may be detained. Should this occur, it would be in conformity with articles 4, 5, 7 and 8 of Decree-Law No. 376 dated 16 July 2004 and section fifteen, “Detention of Persons”, of the Memorandum of Understanding between the El Salvador Ministry of National Defence and the Ministry of Defence of Poland, the lead nation in the multinational division, on command arrangements and related matters in the multinational division (central-south sector) in the Stability Force in Iraq, which says that if a person is captured he/she must be handed over to the Iraqi authorities.

**4. Disarmament, demobilization and social reintegration of child victims of activities contrary to the Protocol**

Legislative Decree No. 416 contains the Benefit Act for Persons Wounded and Disabled as a Result of the Armed Conflict, which has served as the basis for the establishment of services for the war wounded.

The institution responsible for monitoring implementation of this Act is the Fund for the Protection of Persons Wounded and Disabled as a Result of the Armed Conflict, which was established in June 1993. For humanitarian reasons, it initially gave priority to persons with disabilities. In December 1994 a number of amendments to Decree No. 416 were adopted and a table of disabilities was drawn up with a view to conducting technical assessments of beneficiaries.

In September 1995, the Fund initiated the process of validation of persons registered in the census with a view to granting benefits to minor children of deceased former combatants and parents of pensionable age. The benefit policy on behalf of this category of beneficiaries was adopted unanimously by the Board of Directors of the Fund in Agreement No. 34 of June 1994.

The Welfare Programme for Frente Farabundo Martí para la Liberación Nacional (FMLN) Children was adopted to facilitate the educational reintegration and technical training of minors demobilized from FMLN, aged between 15 and 16 on 16 January 1992, who had not had access to the Land Programme under the Supplementary Agreement between the Government of El Salvador and FMLN.

The National Secretariat for the Family conducted a national survey to identify child beneficiaries of the project and the reintegration option they wished to choose, either technical training or education at Ministry of Education establishments. Among the children identified, 152 opted to attend public educational establishments and 97 to enrol for technical training. The National Educational Supervisory Office at the Ministry of Education took the requisite steps to have them enrolled, giving them priority access to baskets of basic educational materials and priority for exemption from the corresponding enrolment quota.

Only nine of the children who opted for enrolment in educational establishments were successfully incorporated in the system. The National Secretariat for the Family, with support from the World Food Programme, supplied them with a basic food basket for a period of six months. Only one of the nine children completed the course of studies.

The Vocational Training Programme funded by the European Economic Community, and the Programme for Integration and Promotion of Employment of Demobilized Persons financed by the German Agency for Technical Cooperation (GTZ) and the National Secretariat for the Family, attended to the needs of the target group and to those of a further 25 children for whom no provision had been made in the Programme.

As stated above, Legislative Decree No. 416 established the Fund for the Protection of Persons Wounded and Disabled as a Result of the Armed Conflict, which has looked after not only people wounded or disabled as a direct consequence of the armed conflict but also family members, minors and disabled persons who have lost their breadwinners for the same reason.

*General information about the Fund:*

Government contribution from April 2005 to date	\$158,085,541.93
Fund budget for 2006	\$14,479,350.00
Total beneficiaries of benefits, April 2005 to date	30,577
- This figure includes orphaned minors as follows:	
Total orphaned minor beneficiaries	7,124
Under-18 children of deceased combatants	6,783
Invalid children of deceased combatants	81
Children of wounded persons who died while receiving Fund benefits	260

## **5. Voluntary recruitment of children under 18 into the Armed Forces**

Article 215 of the Constitution states that “Military service is compulsory for all Salvadorans between the ages of 18 and 30. In case of necessity, all Salvadorans who are fit for military service shall be conscripted. This matter shall be regulated by special legislation.” The Armed Forces (Military and Reserve Service) Act accordingly permits Salvadorans over the age of 16 to present themselves voluntarily at recruitment and reserve centres for enlistment into military service, and allows the centres to accept such volunteers in the light of the needs of the service.

It may be inferred from the above that El Salvador is considering measures to prevent children from taking part in hostilities; Salvadoran law even establishes a higher age for such participation than that laid down in article 38 of the Convention on the Rights of the Child (15 years), and is thus consistent with the Protocol.

## **6. School courses on human rights and international humanitarian law**

Since the Peace Accords, the international law of armed conflict and human rights have been added to the course curriculum taught in the Armed Forces Education System; at present, teaching within that system includes 1,763 hours of instruction on the international law of armed conflict at different levels, and 573 class hours of instruction in human rights (see table).

The Inter-institutional Committee on International Humanitarian Law in El Salvador was created in 1997, to serve the Government as an advisory body on the application, dissemination and interpretation of international law.

The Committee comprises representatives of the Ministries of foreign relations, national defence, public administration, public health and social welfare, and education, the Office of the Attorney-General, the Office of the Prosecutor-General, the Office of the Procurator for the Protection of Human Rights, the National Council for the Arts and Culture and the Salvadoran Red Cross.

Its functions are to recommend ratification of or accession to international agreements on international humanitarian law to the Government; to publicize and promote the norms of international humanitarian law in different sectors of Salvadoran society; to propose reforms to current national legislation so as to comply with international obligations assumed under international treaties relating to international humanitarian law; and to oversee compliance with humanitarian law commitments.

It has four working subcommittees:

(a) The Legislation Subcommittee, which conducts legal studies and analyses and drafts laws and recommendations on the adoption of international humanitarian law standards;

(b) The Dissemination and Training Subcommittee, which encourages acceptance of international humanitarian law at the State level and in other sectors of society. This Subcommittee has trained members of the Armed Forces, the National Civil Police, the Public Order Maintenance Unit, the Public Security Academy and directors of houses of culture;

(c) The Cultural Property Subcommittee, which coordinates compliance with commitments under the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

There is in progress at the moment an academic project with the International Committee of the Red Cross and El Salvador's main universities, which consists in the introduction of international humanitarian law at faculties of law, political science, international relations and journalism. Together with the Legal Training School, efforts are being made to teach courses on international humanitarian law to everyone in the country concerned with the administration of justice.

#### **7. Children still affected directly or indirectly by the armed conflict, although it ended in 1992**

In connection with the supplementary peace accords of December 1992, a special programme was negotiated on behalf of the leaders and middle-level commanders of the Frente Farabundo Martí para la Liberación Nacional (FMLN), incorporating the Fund for the Protection of War Wounded and the so-called Rural and Urban Settlements.

The Government of El Salvador provided opportunities for ex-combatants through the Programme for the Reintegration of Former Combatants into Civilian Life. Eighty per cent are considered to have been satisfactorily reintegrated and the Programme achieved wide coverage of those directly involved in the conflict.

The National Reconstruction Plan focused on demobilized and displaced persons, on returnees and on highly vulnerable persons living in the areas worst affected by the conflict, including children in 115 municipalities in the northern part of the country.

The 115 local governments affected by the armed conflict participated in the implementation of the National Reconstruction Plan together with 16 governmental organizations and 192 NGOs, which took part in various social and economic development programmes. Mention may be made, for example, of the Welfare Programme for War Wounded and the Welfare Programme for FMLN Children.

One of the special projects established for children who were physically injured and needed amputations and treatment during the armed conflict was the Roberto Callejas Montalvo Temporary Home project, which provided treatment for 110 wounded boys and girls.

The children were provided with the necessary prostheses and orthoses, physiotherapy and psychotherapy to overcome trauma, and accommodation during the rehabilitation treatment.

The Salvadoran Institute for Rehabilitation of Persons with Disabilities (ISRI) implemented two projects in the post-war period for all people, including children, who had acquired a disability during the armed conflict in the eastern and paracentral regions of the country.

One of the projects consisted in providing support for the Eastern Rehabilitation Centre established under the National Reconstruction Plan from March 1992 to September 1993. Services were provided to 1,000 people of all ages. It is estimated that 20 per cent were under 18 years of age.

Another project, financed by the European Economic Community, was executed through the Programme for War Wounded and provided services for war wounded from the country's paracentral and eastern regions during the period from 1993 to 1997. Under this project a first- and second-level rehabilitation centre with mobile units was established. Two centres were established in the department of Usulután, seven in San Miguel, six in Morazán, two in La Unión, one in San Vicente and one in Suchitoto, in Cuscatlán department. It should be noted that both civilians and former combatants were treated in the rehabilitation centres.

The Plan for the Expansion of Rehabilitation Services, which included care for children, was launched in the second half of 1996 and became fully operational in 1998, six years after the signing of the Peace Accords.

The Plan covers several programmes: (a) enhancement of rehabilitation and habilitation services for persons with disabilities; (b) promotion of nationwide measures to prevent and detect disabilities; (c) increased social participation; (d) promotion of institutional development; and (e) inter-agency cooperation and coordination.

It should be mentioned that some children who acquired a disability either during the armed conflict or after the conflict because of unremoved mines were able to benefit from the Plan as adults, since children aged between 12 and 17 in 1992 were adult by 1998, the year in which the Plan became fully operational.

To ensure motor recovery, children have been provided, as appropriate, with a prosthesis and/or an orthosis; in addition, they have been given all kinds of physical and occupational therapy to develop fine and gross motor skills in the upper limbs; they have been encouraged to participate in sports to develop muscles and balance and to build the self-confidence needed to move about in open areas.

With a view to social reintegration, families have been given advice on how to remove architectural barriers in the home, and awareness days have been organized for community representatives and leaders to alert them to the need to integrate children with disabilities into the community. They have also been given advice on removing obstacles to ease assimilation.

Lastly, children who during the armed conflict were displaced or orphaned or took part in the fighting continue to benefit, as adults, under the programmes of the Fund for the Protection of Persons Injured or Disabled in the Armed Conflict, as described above.

Information on measures taken to implement the 2005 decision of the Inter-American Court of Human Rights in the case of the *Serrano Cruz sisters vs. El Salvador*, including

but not limited to the establishment of a Commission to determine the whereabouts of children who disappeared during the armed conflict.

The Inter-American Court of Human Rights ruled that the State could comply with the corrective measure it ordered through the Inter-institutional Commission to Search for Children who Disappeared owing to Armed Conflict in El Salvador, provided that that body met the criteria established, or could establish a new commission that met those conditions. Realizing that the President's brainchild met the requirements, the State decided to pursue the first option.

It therefore began taking administrative steps with the appropriate bodies to provide the Commission with space to work in and funding that had not been included in the State budget so that it could carry out its assigned tasks.

On 5 May 2005 the Association for the Tracing of Children who Disappeared as a Result of the Armed Conflict (Pro-Búsqueda) formally filed 40 entitlement claims with the Ministry of Foreign Affairs, of which 39 were ultimately accepted, as only they lay within the competence of the Inter-Institutional Commission. On 13 June 2005 the various members of the Commission met to begin work officially in the presence of representatives of the Supreme Court of Justice, Pro-Búsqueda, the Study Foundation for the Application of Law, the Human Rights Institute of the José Simeón Cañas University of Central America and the Church of Christ the Saviour. The meeting enabled the Commission members to express to civil society their desire to work actively for the objectives of the Commission.

The Inter-institutional Commission comprises representatives of the Ministry of Foreign Affairs, as coordinator; the Ministry of the Interior, the Ministry of National Defence, the National Civil Police, the Salvadoran Institute for the Integrated Development of the Child (ISNA), the Office of the Procurator-General of the Republic and the Office of the Attorney-General of the Republic. Following the meeting referred to above, each participating body, including the Supreme Court of Justice, which meets periodically to work on various matters to do with its effective functioning, named a representative to serve on the Commission's technical team. The Commission's rules of procedure were adopted by its plenary on 6 February 2006.

To enable the Commission to operate, a Plan of Action for the Operational Team was drawn up, the aim being to keep on launching activities in the field. A "researcher's profile" was drawn up so that the member institutions could seek out among their staff appropriate personnel to work for the Commission.

Because of the importance and the sensitivity of the field activities and the kind of investigations that the Commission had to conduct, it was decided to hold a Workshop on Socialization of Investigation Procedures for members of the technical team. The Workshop was designed for people who would work for the Commission and conduct field research; the investigative experience of some members of the technical team, in particular those working on social topics, would be pooled.

Special mention should be made of the serious and effective work done by the Inter-institutional Commission: the first case of a missing person was solved in early March with the tracing of Ms. Teresa de Jesús Hernández, who had been separated from her biological

family for over 24 years. The Commission arranged and prepared her reunion with her family, which took place on 19 March 2006 in San José canton, in the Department of Chalatenango.

The case of Teresa de Jesús is significant, being the result of hard work by the Commission in carrying out its investigation procedure, as duly documented in the Commission's records. On 27 March 2006, in a goodwill gesture and as a symbolic measure, the State gave Ms. Hernández a house in a location known as Villa Lourdes for her and her children to use, together with her biological family if they wish.

On the subject of field activities carried out by the Commission itself, it should be said that the Commission's field research team comprises three lawyers, two social workers, two psychologists and two investigators.

The multidisciplinary field activities team began work on Tuesday, 6 September 2005, with the workshop on socialization of investigation tools. The workshop laid out an initial logistic approach to data collection: for example using a special file structure for specific data, scheduling field visits and holding weekly meetings to pool experience of different kinds of field work and to check on progress. These meetings in turn led to new agreements to cooperate among the representatives of the participating institutions.

The field work has included interviews with civilians, discharged and retired military staff, State officials and officials from national and international institutions such as the Salvadoran Red Cross and the International Committee of the Red Cross. Various leads and some important information have thus been collected. In the short and medium term, it can be expected that a number of cases will be settled satisfactorily, that the rest of the cases under investigation will be documented with more detailed information, and that new cases will be registered.

As regards documentary research, various public institutions, homes where minors may have been housed and media offices have been visited, and their archives consulted: some extremely valuable information, including photographs, has been found. The information obtained is being sifted with a view to subsequent study, and cases that are considered to meet the criteria established by the Commission will be opened.

It should also be mentioned that enough new cases have been registered to enable the Inter-institutional Commission to meet its aims and objectives.

Regarding the assurance that State institutions must cooperate in providing information to the National Commission of Inquiry (p.186) and in granting access to all archives and records that may contain information on the possible fate of the children in question, access has so far been granted to the archives of the Salvadoran Institute for the Integrated Development of the Child and the Office of the Procurator-General, and the Ministry of National Defence has handed over the information that was requested of it. Formal access to the files of the judiciary has also been requested.

Regarding the independence and impartiality of the National Commission of Inquiry (p. 187), each of the institutions sending representatives to attend technical meetings acts independently, and all decisions taken by the Commission have been adopted by consensus.



We stress the involvement of the Office of the Attorney-General, the Office of the Procurator-General and the Supreme Court of Justice: these State institutions are not part of the Executive Branch, but their active participation in the Commission nonetheless illustrates the will of the State to have these cases investigated.

Lastly, on 11 September 2005 the Legal Affairs and Human Rights Office at the Ministry of Foreign Affairs referred the case of the Serrano Cruz sisters to the Inter-institutional Commission for investigation.

**8. Information on the number of children between 16 and 18 years who died while serving in the army between 2002 and 2005**

As no Salvadoran aged between 16 and 18 volunteered to serve in the military under article 6 of the Armed Forces (Military and Reserve Service) Act, no under-age personnel died in the period in question.

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